

B Duxbury Clipper

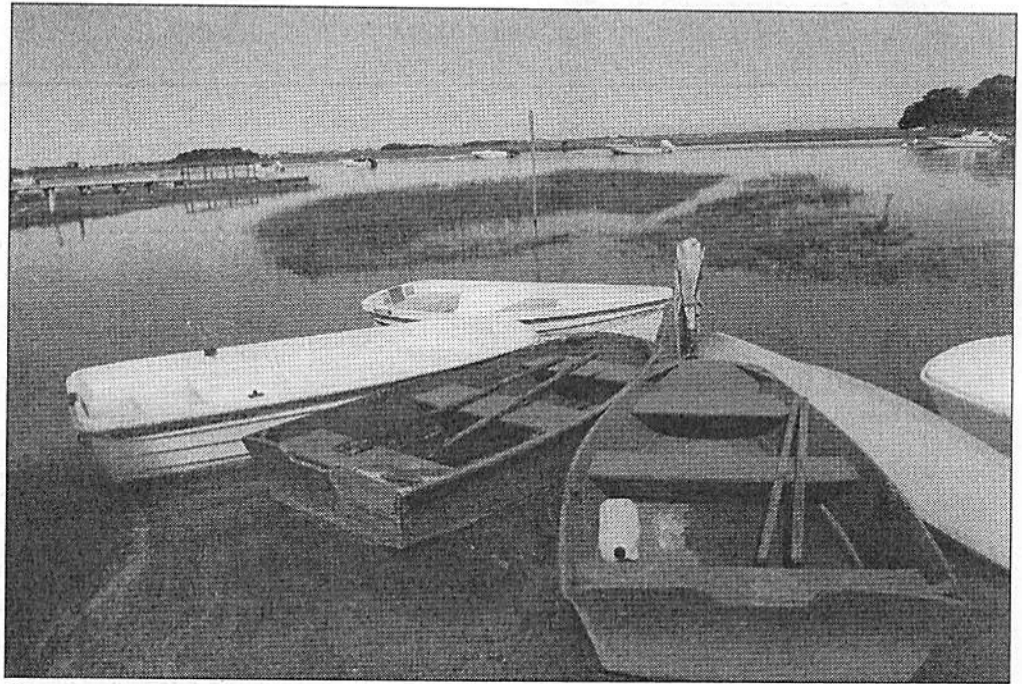
SPORTS • CALENDAR • CLASSIFIEDS

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Duxbury's town landings

Part III: Controversy and conflict

Editor's note: This series of stories providing an in-depth look at the town's landings originally ran in 1999. In light of the recent hubub surrounding Howland's Landing/Blairhaven, we thought our readers would appreciate another look. The stories have been edited slightly from the 1999 printing. This is the third and final installment of the three-part series. Part 1 defined town landings and delved into the histories of the six oldest landings. Part 2 examined the push to create new town landings in the early 1900s. Part 3 focuses on the issues surrounding town landings and how they have been controversial through the years.



The Cove Street Landing today, pictured at high tide. Maintenance crews from the Department of Public Works constantly battle erosion at this and other town landings.

Duxbury's Town Landings:

Wednesday, August 17, 2011

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Over the last century, Duxbury's 16 town landings have frequently been a source of controversy between the people who live near them and the public who have a right to use them. Conflicts over access, encroachment and maintenance have all been a part of this history.

Beginning in 1893 and continuing into the next century, committees studied and documented the town landings and recommended the town preserve and protect them. In 1899, Duxbury's townspeople approved measures to survey the landings, mark them with boundary stones and record them in Plymouth and at the town clerk's office.

A few years later, residents decided to get tough about enforcing these boundaries. In 1904, a town landing committee voted "that the selectmen be requested to guard the public landings, that painted signs be placed upon them and fences be built defining their limits ... that no buildings or structures of any kind be built upon them and that several ways to them be kept open and unobstructed."

These measures were necessary to protect the public's right to use the landings from people, very often neighbors,

who would prefer to limit activity in these areas. Remarkably, in 95 years little has changed. Landings are still surrounded by conflict and controversy that ebbs and flows over the years. Many residents can tell stories of how they have been made to leave or prevented from entering public landings because they were told these areas were private. Access to landings has been a continual source of tension.

Conflicts over Access

"The problem of assuring protection to shore property owners and to the public for access to the water has long been a thorny one," wrote the Rev. Canon Robert Merry in the Clipper in 1981.

The 1999 Massachusetts Coastal Zone Management publication, "Preserving Historic Rights of Way to the Sea," explains why this is: "A generation ago, most residents knew of traditional, locally used places to clam, launch a boat, swim, fish or gaze at the ocean. Fifty years ago, informal agreements, local custom and

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traditional patterns of use satisfied much of the local demand for access ... Yet in the last few decades, due to accelerating population and development, many traditional access ways have been built upon, disguised, fenced off, posted or purchased by new owners who won't tolerate the old patterns of use. Escalating coastal land prices exacerbate the problem, making both new and old owners more protective of their holdings."

One way of discouraging the public's access to town landings is by encroachment by abutters, which happens in Duxbury and in other Massachusetts towns.

At many of Duxbury's landings, one can see encroachment of various kinds. In one case, the lawn of a house adjacent to the landing has spilled over its boundaries on town land. Clearly visible within this lawn is one of the two cement stakes marking the landing lot line. At other landings, encroachment has affected the entryways: overgrown bushes obscure the foot paths to the water and lawns have been allowed to grow over access routes.

This encroachment serves the purpose of hindering the public's access by creating a feeling of trespassing on private land. Unsure of where a landing's right of way is, many people are intimidated and would rather not chance trespassing or upsetting neighbors.

"Many neighbors would like the landings to become invisible," said DPW director at the time, Walter Tonaszuck, "They are constantly at odds with the town" about access and maintenance. Tonaszuck has seen instances of intimidation by abutters who erect illegal no trespassing or no parking signs or tear down town street signs or set out orange highway cones to discourage parking. He said he's received complaints about landings from both abutting landowners and the public. Hick's Point landing and Peterson's landing are two areas Tonaszuck cites as having been involved in conflict.

While public grievances center around access, abutters can complain about rude people trespassing on their land, parking where it's not allowed, littering and damaging fragile areas such as marshlands.

Despite these problems, public access is just that — public, and many people, including Tonaszuck, feel the town must protect its landings. "We should do the best we can to not have them disappear," he said.

Many other Massachusetts towns, especially those on the North Shore, have grappled with the issues of keeping public landings open. In Gloucester, a public landings project was established in 1987 to rediscover and reclaim the city's numerous, but neglected landings. Gloucester had a history of private property owners encroaching on public landings. The landings advisory committee was able to revive 38 public landings and ways to the sea. It also published a brochure describing each landing's location, its characteristics and available parking.

In Nahant, annual perambulations, or walking tours, are given of that town's ancient walkways and trails including those to the water. The local planning board and at least 50 residents of all ages participate in these well-publicized events.

In Marblehead, local public rights of ways to the ocean suffered from encroachment by abutting landowners whose lawns spilled over on to the paths. To combat this, the town received a coastal access grant from the state Department of Environmental Management that enabled it to erect signs, repair sea walls and build stairs to the beach, thus creating readily recognizable access ways to the water.

At the state level, there is help for cities and towns to reclaim lost right of ways to the sea. The state's Coastal Access and Mediation Service (CALMS) program assists in the resolution of local disputes over public versus private access to the coast. It will provide free legal or mediation services to towns, organizations or individuals if their cases have merit. One of example where CALMS has become involved is in Plymouth's Cedarville section where the town owns a public landing and right of way but access to both has been swallowed up by a subdivision.

Conflict at Peterson's landing, 1982

In Duxbury, "landings can be controversial because of conflict of use," according to Harbormaster



The paths that make up public access to the landings aren't always high priorities for the town Department of Public Works, and Duxbury officials often find themselves playing "catch-up" with maintenance.

Photos by Anne Steele

Donald Beers. An example of this is what happened between neighbors, the town and shellfishermen at Peterson's landing off Powder Point Avenue in 1982.

At that time, Doris and Robert Meyers lived at 222 Powder Point Ave. in a house on the sand facing the Back River marsh. The lot lines of Peterson's landing practically touch one corner of this house because they run at an angle to the water. The house is not more than 10 feet away from the landing boundary. The Meyers complained to the town that their Powder Point Avenue neighbors, Thomas Stalker and John McCarthy, allowed mussel fishermen to park their trucks on private property to the right of the town landing. The Meyers wanted the building inspector to stop this activity because the truck traffic "interrupts the family's sleep and enjoyment of their property" and the parking "has become a source of extraordinary disturbance ... and constitutes a nuisance," according to a letter from the Meyers' attorney to Duxbury's building inspector. The Meyers also claimed that vehicles were eroding the beach and the fragile marsh at the landing.

After consulting with Duxbury's town counsel, building inspector Spencer Joseph denied the Meyers' request because there were not enough facts in the complaint to prove the shellfishermen created a nuisance. The town counsel also clearly stated that not only was the complaint lacking a legal basis, but that people who buy homes near existing town landings must live with the activity there: "A person who purchases property near or contiguous to a public landing cannot complain about the noise generated from the lawful use of that public resource. Obviously, the public right of access to the sea can not be defeated because of a person's objections to the sounds normally associated with such use."

The Meyers appealed Joseph's denial of their request to the zoning board of appeals, which ultimately upheld the building inspector's decision. In the end, both Stalker and McCarthy asked the fishermen to stop parking on their beach. Letters written by Thomas Stalker to the musselmen indicate the Conservation Commission issued a cease and desist order of the parking to prevent erosion. It does not appear that the Meyers appealed the ZBA's decision to the courts since there is no record of this in town files.

As a result of this conflict about parking, Peterson's landing was thrust into the spotlight. Over 200 people came to the ZBA's public hearing because they feared the landing would be closed and then a precedent would be set for the closure of others. Both residents and the town's Planning Board wrote letters and spoke about how important it was to preserve Peterson's and all landings.

In the years since that conflict, Peterson's landing has remained open to the public, although the people

who use it have changed. The musselmen are gone because mussels have all but disappeared from Duxbury Bay. The Meyers have moved on also. However, the Peterson's landing incident is a reminder for many of how strongly residents feel about preserving their town landings.

Maintenance is a constant battle

In addition to access and use conflicts, maintenance is another issue involving town landings. Both the harbormaster's department and the department of public works share the responsibility for maintaining the landings, but it is a constant struggle. While the ocean hammers away at landing's beaches and paved boat launches eroding them continually, storm water runs off the street adding to the washouts. Also, bushes and brambles grow over the entrances and must be cut back to preserve access.

A good example of a landing where maintenance has been an ongoing issue is Cove Street.

"It's in a terrible situation right now," explained Conservation Administrator Joe Grady in 1999. "It's almost unusable."

In constant use since before 1834, Cove St. has had long-standing problems with erosion. This landing's paved entry is at a low point between hills on either side, and rain water runs down the hills into the landing, washing away the sandy parking area and eroding the asphalt launching ramp. The sea water coming up to meet the asphalt ramp further undermines it, turning it into chunks of pavement, making boat launching nearly impossible.

The problems at Cove Street have long been recognized. In 1975, the town landings committee wanted the area surveyed to determine how to reduce erosion. It also recommended bringing in loads of sand and gravel. In 1992, Grady created a plan that involved constructing several scuppers along Cove Street to reduce the run-off before it reached the landing and building a retention basin in a weedy area to catch the rest of the rain water. He also recommended removing part of the paved launch ramp and filling in that part and the rest of the area with clean sand and gravel.

Like Cove Street, other landings maintenance problems and need attention. The Harden Hill landing has also fallen prey to erosion of its asphalt and gravel sections. One of the worst cases of erosion is at Shipyard Lane Beach: over the winter, northeast storms break off large chunks of pavement at the entrance ramp. Come summer what's left is a precipitous drop off in the pavement that makes reaching the beach a treacherous, ankle turning experience.

While Beers tries to keep up with the ongoing maintenance of each landing, asking the DPW for sand or asphalt, it always seems that mother nature is one step ahead of him, worsening already bad conditions. Also, the harbormaster's department has no funding for landing maintenance and must wait until the DPW can spare the men and the money. Sometimes, it can be a long wait.

"The main reason it takes so long and the work is so stingy is because of the ecology and the requirements of the Wetlands Protection Act," said Tonaszuck. "Each one is done individually, in the category of maintenance instead of construction so as to not disrupt the ecology there."

While the town plays catch-up trying to maintain its landings, it must also look to the future to protect these historic rights of way to the sea. Increased pressures from development and population on Duxbury's waterfront make public landings that much more important to the community. Maintaining the landings as safe and viable, preserving the access ways from encroachment and neglect, and mitigating any future conflicts or controversies that may arise are obligations that must be shouldered by both the town and its residents.

THE LANDINGS

16 Town Landings: Mattakeeset Court at the town pier, Cove St., Harden Hill, Howland's Landing, Drew Salt Works at the end of Bay Pond Rd., Simeon Soule's and Clark Peterson's landing off Powder Point Ave., Powder Point Bridge landings- both north and south sides, Anchorage Lane off St. George St., Bluefish River, Winsor St., Water St., Josselyn Ave. landings, Landing Road, Hick's Point Rd., and Ford's Stand off Ocean Rd. North.

7 Public Ways to the Water: Island Creek Pond, Bay Farm, Miles Standish Homesite, Samoset Rd., Sagamore Rd., Elder Brewster Rd., and Massasoit Rd.

Shipyards Lane: Beach off Washington St. is neither a landing or a way to the water. It is a public beach given to the town as such in 1944 by Eben and Grace Ellison. Since Duxbury Beach is privately owned, it is actually the only town-owned beach in Duxbury.